

## **REMARKS**

Claims 1, 4-6, 8-9, 11-14, 16, 18-23, 25-26, and 28 stand rejected under 35 U.S.C. § 103(a) as being anticipated by United States Patent Number 6,498,038 to Berkowitz et al. (hereinafter “Berkowitz”) in view of United States Patent Application Publication Number 2004/0254964 by Kodama et al. (hereinafter “Kodama”) in further view of United States Patent Number 5,875,457 to Shalit et al. (hereinafter Shalit) and United States Patent Number 6,934,822 to Armangau et al. (hereinafter “Armangau”).

### **Amendments to Claims.**

Applicants have amended claim 1 with the limitation “...the background copy indicator configured to indicate whether data transfers for a plurality of fast replications operations are conducted as a background operation...” The amendment is fully supported by the specification. See page 14, lines 1-3. Claims 6, 13, 16, 23, and 26 are similarly amended.

### **Response to rejections of claims under 35 U.S.C. § 103.**

Claims 1, 4-6, 8-9, 11-14, 16, 18-23, 25-26, and 28 stand rejected under 35 U.S.C. § 103(a) as being anticipated by Berkowitz in view of Kodama in further view of Shalit and Armangau. Applicants respectfully traverse these rejections.

Applicants have amended claims 1, 6, 13, 16, 23 and 26 with the limitation “...the background copy indicator configured to indicate whether data transfers for a plurality of fast replications operations are conducted as a background operation...” Applicants submit that the

amendment distinguishes the present invention from Armangau, which teaches a clone block address bit instead of the background copy indicator of the present invention. Armangau, col. 16, lines 32-34. Berkowitz, Kodama, and Shalit also do not teach a background copy indicator that indicates whether data transfers for a plurality of fast replications operations are conducted as a background operation. Applicants therefore submit that claims 1, 6, 13, 16, 23 and 26 are allowable.

With regards to the Examiner's argument that Shalit teaches a redundancy level indicator configured to select a redundancy in the range of no redundancy to a RAID level 50 redundancy, Applicants respectfully disagree. Shalit teaches a RAID storage controller that is configurable to provide user selectable redundancy for data with redundancies including RAID 0, RAID 1, RAID 3, RAID 5, and RAID 6 redundancies. Shalit, col. 2, lines 45-49. However, Shalit does not teach snapshot criteria stored in a metadata buffer comprising a redundancy level indicator that selects a redundancy in the range of no redundancy to a RAID level 50 redundancy. Applicants therefore submit that claims 1, 6, 13, 16, 23 and 26 are allowable. Applicants further submit that claims 4-5, 8-9, 11-12, 14, 18-22, 25, and 28 are allowable as depending from allowable claims.

### Conclusion

As a result of the preceding amendments and remarks, Applicants submit that the application is in condition for prompt allowance. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

/Brian C. Kunzler/

Brian C. Kunzler  
Reg. No. 38,527  
Attorney for Applicant

Date: August 6, 2007  
8 East Broadway, Suite 600  
Salt Lake City, UT 84111  
Telephone (801) 994-4646  
Fax (801) 531-1929